

REMARKS

The invention relates to a camera that uses flash illumination to assist the photographer in composing a photograph. Claims 1-24 remain under consideration in the application. Claims 1, 4, 5, 10, 11, 14, and 19 are currently amended. No new matter is introduced.

Several times in the office action mailed December 27, 2005, the examiner rejects claims based on Matsui (U.S. Pat. Application No. 2002/0048457), but refers to a "Higuchi" reference in the discussion of the rejection. Because the page and paragraph numbers and the cited matter match Matsui, Applicant will assume that the references to Higuchi are erroneous, and will reply as if the references are to Matsui.

In the claims:

Claim 10 has been amended to make its language more definite.

Claims 1-3, 5-7, 11-13, and 15-19 have been rejected under 35 U.S.C. 103(a) as being unpatentable over Tanaka et al. (U.S. Pat. Application No. 2001/0043277) in view of Matsui (U.S. Pat. Application No. 2002/0048457). Independent claims 1, 11, and 19 have been amended to further distinguish over the prior art, and claim 5 has been amended to harmonize with claim 1 from which it depends. Applicant believes the rejection to be overcome.

Claims 1, 5, 11, and 19 have been amended to clarify that the strobe flashes throughout composition of a photograph. This change finds support in the specification at least at page 5 lines 11-17, page 6 line 17 through page 9 line 2, and in Figures 2 and 3. Figures 2 and 3 show methods wherein a strobe is flashed periodically throughout a preview mode. Page 5 lines 11-17 explain that one example time during which a user is composing a photograph "may be coincident with a preview mode".

None of the cited art teaches or suggests flashing a camera strobe repeatedly throughout composition of a photograph. Tanaka describes only one "pre-light emission image" taken between the "S1" and "S2" positions. (Tanaka paragraphs [0172] - [0176] and Figure 12.) Taking the interval between S1 and S2 as but one example of a time throughout which composition occurs (see Applicant's specification page 4 line 21 through page 5 line 17), Tanaka leaves a significant

portion of this interval without any strobe flashes. (Tanaka Figure 12.) Matsui teaches multiple flashes as pre-flash (Matsui paragraph [0064]), but does not suggest that the flashes continue throughout composition of a photograph.

Furthermore, Matsui indicates that the duration of a "discrete flash" is about 1 millisecond, and the duration of Matsui's "FP flash" is about 200 to 300 milliseconds. (Matsui paragraph [0008].) As one of skill in the art will recognize, even 300 milliseconds is insufficient time to *compose* a typical photograph. Clearly, Neither Tanaka nor Matsui nor their combination teaches or suggests a strobe flashing throughout composition of a photograph, and independent claims 1, 11, and 19 are believed allowable over the cited art.

Claims 2, 3, and 5-7 depend from allowable claim 1 and add further limitations, and are therefore also believed allowable. Claims 12, 13, and 15-19 depend from allowable claim 11 and add further limitations, and are thus also believed allowable.

Claims 4 and 14 have been rejected under 35 U.S.C. 103(a) as being unpatentable over Tanaka et al. (U.S. Pat. Application No. 2001/0043277) in view of Matsui (U.S. Pat. Application No. 2002/0048457) and Iwai (U.S. Pat. No. 5,198,855). Both claims 4 and 14 have been amended to harmonize with their respective parent claims. Claim 4 depends from claim 1, which Applicant believes to be allowable as amended over Tanaka et al. and Matsui, and adds further limitations. The Iwai reference also does not teach or suggest a camera comprising a strobe that flashes repeatedly throughout composition of a photograph, and thus the combined references still do not teach or suggest all of the limitations of Applicant's claim 4. Claim 4 is therefore also believed allowable. Claim 14 depends from claim 11, which Applicant believes to be allowable as amended, and adds further limitations. Claim 14 is therefore also believed allowable.

Claims 8-10 and 20-22 have been rejected under 35 U.S.C. 103(a) as being unpatentable over Tanaka et al. (U.S. Pat. Application No. 2001/0043277) in view of Matsui (U.S. Pat. Application No. 2002/0048457) and Umeda (U.S. Pat. No. 5,920,342). Claims 8-10 depend from claim 1, which Applicant believes to be allowable as amended over Tanaka et al. and Matsui, and add further limitations. The Umeda reference also does not teach or suggest a camera comprising a strobe that

flashes repeatedly throughout composition of a photograph, and thus the combined references still do not teach or suggest all of the limitations of Applicant's claims 8-10. Claims 8-10 are therefore also believed allowable. Claims 20-22 depend from claim 11, which Applicant believes to be allowable as amended, and add further limitations. Claims 20-22 are therefore also believed allowable.

Claims 23 and 24 have been rejected under 35 U.S.C. 103(a) as being unpatentable over Tanaka et al. (U.S. Pat. Application No. 2001/0043277) in view of Matsui (U.S. Pat. Application No. 2002/0048457). Applicant respectfully traverses the rejection because the examiner has not made out a *prima facie* case of obviousness. The examiner's *prima facie* case is deficient for at least the reason that the cited references, even in combination, do not teach or suggest all of the limitations of claims 23 and 24. (See MPEP 2143.)

Claim 23 recites in part the camera flashing the strobe repeatedly throughout an interval beginning after a time when the shutter release reaches the partially depressed position and ending at a time when the shutter release reaches the fully depressed position. The examiner admits that the references do not explicitly show this element, but attempts to use Applicant's disclosure to show that it would have been obvious to modify Tanaka by making "nonexistent" the time between Tanaka's "pre-light emission" and "light emission", presumably so that Tanaka's "pre-light emission" would fill the entire time between S1 and S2. (Paper 12212005, page 18.) In support of this attempt, the examiner cites Applicant's specification page 7 lines 5-16 in which Applicant states that

[a]t step 212, the camera repeatedly checks to see if the proper time interval has elapsed since the last flash. A proper interval could be for example 250 milliseconds, but a camera designer of skill in the art may select a different interval based on the photographer's viewing comfort, the strobe energy capacity, the expected time that the camera will be in the preview mode, the energy expended in each preview strobe, the camera's strobe recharge capability, and other factors. ... Alternatively, time interval could be nonexistent and the camera could proceed directly to step 214.

In the first place, this reliance on Applicant's specification is improper.

To reach a proper determination under 35 U.S.C. 103, the examiner must step backward in time and into the shoes worn by the hypothetical "person of ordinary skill in the art" when the invention was unknown and just before it was made. In view of all factual

information, the examiner must then make a determination whether the claimed invention "as a whole" would have been obvious at that time to that person. **Knowledge of applicant's disclosure must be put aside in reaching this determination....** [I]mpermissible hindsight must be avoided and the legal conclusion must be reached on the basis of the facts gleaned from the prior art. (MPEP 2142, emphasis added).

In the second place, even if the examiner were permitted to rely on Applicant's specification, the examiner's *prima facie* case would still be deficient because the cited portion of the specification does not teach that for which it is relied upon. The examiner takes Official Notice, based on Applicant's disclosure, that "both the concept and the advantages of adjusting the flashing interval according to the photographer's desire are well known and expected in the art." (Paper 12212005 pages 18-19.) However, adjusting the flashing interval as Applicant describes would not turn the device of Tanaka into the invention of claim 23.

Applicant respectfully notes that the "time interval" referred to on page 7 of the specification is different than the interval the examiner suggests could be made "nonexistent" in Tanaka. The Tanaka interval is the time between Tanaka's "pre-light emission" and "light emission". Applicant's interval of page 7 is the time between the repetitive flashes used to assist in framing. Applicant's specification merely points out that a camera designer would consider several factors in choosing how often the repetitive flashes occur, whether with a delay in between or with substantially no delay. This passage says nothing about the time when the repeated flashes stop. Applicant respectfully notes that choosing a time between repetitive flashes is not an element of claim 23, and the fact that a camera designer could choose an appropriate time between flashes says nothing about the patentability of claim 23, which recites when the repetitive flashes begin and end.

This reading is supported by Applicant's Figure 2. When the camera "proceed[s] directly to step 214" after a nonexistent interval, it is not proceeding to take the final photograph. It is proceeding to test whether a final photograph has been initiated.

In other words, making the "interval" between repetitive flashes "nonexistent" (specification page 7) is different than making Tanaka's "interval" "nonexistent" (paper 12212005 page 18). The examiner's reliance on Applicant's specification is misplaced.

Claim 23 is believed allowable.

Claim 24 is a method claim that recites in part continuing the repeated flashing until detecting that the shutter release has reached a fully depressed position. Claim 24 is believed allowable for the reasons given above with respect to claim 23.

Applicant believes this application is in condition for allowance, and such action is earnestly solicited.

Respectfully submitted,

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